In the matter of Alfred Chartz, Esq., elect of decisions and the law appli for Contempt DECISION

show cause whw he should not be false charges or vilification. adjudged guilty of contempt for hav- He may rully present, discuss and

not know what they wrote about."

ious: disavowed any intention to com- and protect. mit a contempt of court; and, further gized for its use and asked that the and intentional misconduct. sa e be stricken from the petition. ,

cognizance of, attributing its bee to technic imigination of cunsel."

Also, the case and its condition at and the Supreme Court of the United States in the cases of State v. Holden, 14 Utah 71 and 86, 46 P. 757 and 1105. 37 L. R. A. 103 and 108; Holden v Short v. Mining Company, 20 Utah, 20, 67 P. 720, 45 L. F. A., 603, and by the Supreme Court of the State of Missouri re Cantwell, 179 Mo. 245, 78 S. W. 569. It may not be out of place here, also to note that the latter case has since been affirmed by the Spreme Court of the United States, and more recently the latter tribunal, adhering to its opinion therein and in the Utah cases, has refused to inter-

It would seem therefore, a natural and proper, if not a necessary deduction from the language in question. when taken in connection with the law of the cases as enunciated by this and other courts, that counsel, finding that the opinion of the highest court in the land was adverse instead of favorable to his contentions, in that it specifically affirmed the Utah decision in Holden vs. Hardy, which sustained the statute from which ours is copied, and that all the courts named were adverse to the views he advocated, had resorted to abuse of the Justices of this and other courts, and to imputations of their motives.

fere with the decisions of this Co.

in re Kair.

The language quoted is tantamount to the charge that this tribunal and the Suoreme Courts of Utah, Missouri and of the United States and the Justices thereof who participated in the opinions upholding statutes limiting the hours of labor in mines, smelters and other cre reduction works, were misguided by igno ance or base polit cal considerations.

Taking the most charitable view. if counsel became so imbued and misguided by his own ideas and conclusions that he honestly and eroneously conceived that we were controlled by ignorance or sinister motives instead of by law and justice in determining constitutional or other questions, and that these other courts and judges and the members of the legislature and Governor were guilty of the accusation he made oecause they and we vocated, and that his opinions ought to ou'weigh and turn the scale against the decisions of the four courts named including the highest in the land with nineteen justices concurring. nevertheless it was entirely inappro-

facts, to sustain the charge he made he ought to have been aware that the purpose of such a document is to enlighten the court in regard to the controlling facts and the law, and convince by argument, and not to abuse and vilify, and that this court is not endowed with nower to hear or determine charges impeaching its Justices. On the ctuer hand if he did not believe the accusation and made it with a cesire to mislead, intimidate or swerve from duty the Court in its ecision, the statement would be the more censurable. So that taking oit, e- view, whether respondent believed or disbelieved the tious. The cuty of an attorney in sometimes, thinking it a mark of in-derly and violent, who respect neither

court in ascertaining the truth per taining to the pertinent facts, the rea caple in the case, and he far overstep: the bounds of professional conduc. Respondent was commanded to when he reports to misrepresentation

ing, as an attorney of record in the argue the evidence and the law and matter of the application of Peter Kair freely indicate wherein he beautes for a Writ of Habeas Corpus filed in that decisions and rulings are wrong or this court a petition for rehearing it: erroneous, but this he may do with which he made use of the following out effectually making bald accusations against the motives and intelli-"In my opinion, the decisions favor- gence of the court, or being discouring the power of the State to limit the teous or resorting to abuse which is hours of labor, on the ground of the not argument nor convincing to reapolice power of the State, are all soning minds. If respondent has no wrong, and written by men who have respect for the justices, he ought to mever performed manual labor, or by have enough regard for his position politicians and for politics. They do at the ber to refrain from attacting the tributal of which he is a mem-Respondent apeared in response to ber, and which the p-ople, through the citation, filed a brief and made an the Constitution and by general conextended address to the Court in sent have made the final interpreter which he took the position that the of the laws which ne, as an officer words in question were not contempt- of the court, has sworn to uphold

These duties are so plain that any that if the langauge was by the court departure from them by a member seemed to be objectionable, he apoli-; of the bar would seem to be willful

The power of courts to punish for In considering the foregoins state- contempt and to maintain dignity in ment it is proper to note that in the their proceedings is inherent and is bearing of the case in the first 'n provided by statute. By analogy we bud tone and insulting mannant stance, he used language of similar note the adjudications and penalties import which this court did not take imposed in a few of the many cases. .ord Cottingham imprisoned Ed-

over zealousness upon the part of mund Lechmere Charlton a barrister counsel, but which was of such a na- and member of the House of Comture that the Attorney General in his mons for sending a scandalous letter reply prief referred to 1 as insinuat- to one of the masters of the court. ing that the Legislature in enacting and a committee from that body, after and this court in sustaining the law an investigation, reported that in their were being "impelled or controlled by opinion his "claim to be discharged some mythical political influence or from imprisonment by reason of privi- it contained the following: fear, which exists only in the pyro- legde of parliament ought not to be admitted." 2 Milne and Craig, 317.

When the case of People vs. Tweed the time the objectionable language in New York came up a second time was used, should be taken into consid- before the same judge, before the trial eration. The proceeding, in which commenced, the prisoner's counsel pribrought to test the constitutionality couched in respectful language, in of a section of an Act of the Legisla- waich they stated, substantially, that day in smelters and other ore reductional stances of the former trial, that the no relief whatever." tion works, except in cases of emer- judge had conceived a prejudice gency where life or property is in against him, and that his mind was said in the opinion: imminant danger. Stat. 1903, p. 32, not in the unbiased condition neces-This Act had passed the Legislature sary to afford an impartial trial, and the judge of ... e court pet w did not almost unanimously and had receiv- respectfully requested him to consid- act from proper motives, but from a ed the Governor's approval. At the er whether he should not relinquish 1 a of the parties or their counsel time of filing the petition, respond nt the duty of presiding at the trial to was aware that the court had nre- some other judge, at the same time viously sustained the validity of this declaring that no personal disrespect the contrary, is action complained of enactment as limiting the hours of was intended toward the judge of the seems to us to have been entirely labor in underground mines. Re court. The judge retained the letter proper: See Sil v. Reese, 47 Cal. 340 Boyce, 27 Nev. 327, 75 P. I., 65 L. R. and went on with the trial. At the A. 47, and in mills for the reduction end of the trial -e sentenced three less c arge against the purity of moof ores, Re Kair 28 Nev. 80 P. 464, of the writers to a fine of \$250 each, tive of the judge of the court below and that similar statutes had been up. and publically reprimanded the oth- This we regard as a grave breach of held by the Supreme Court of Utan ers, the junior counsel, at the time ex- professional propriety. Every person pressing the opinion that if such a on his admission to the bar takes an thing had been uone by them in Eng- cath to faithfully discharge the duland, they would have been "expelled ties of an attorney and counceler" from the bar within one hour." The Surely such a course as was taken in was deemed offensive and the court Haddy 169 U. S 366 18 Sup. Ct. 383; counsel at the time protested that this case is not in compliance w. intended no contempt thev court and that they felt and G. & S. M. Co., 61 cal. 117. Abe court intended to express no disres said:

> fines. 11 Albany Law Journal 408, 26 Am. R. 752. For sending to a district judge out of court a letter stating that "The ruling you have made is directly contrary to every principal of law, and every body anows .. I believe and it is our desire that no such decision shall-stand unreversed in any court. we practice in," an attorney was fine.. \$50 and suspended from practice until the amount should be paid. In delivering the opinion of the Supreme Court of Kansas in Re Prior, 18 Kan.

commit a contempt and enforced the

72. 26 Am., 747, Brower J., said: "Upon this we remark, in ac first! place that the language of this letter is very insulting. To say to a judge that a certain ruing which he has made is contrary to every principle of law and that everybody .. nows 't is

certainly a most severe imputation. nev is under special obligations to be considerate and respectful in his con- | made any accusation against the duct and communications to a judge He is an officer of the court, and it is therefore his duty to uphold its honor and dignity. The independence of the transaction he did not have the slightprofession carries with it the right freely to challenge, criticise and condemn all matters and things under review and in evidence. End with this privilege goes the corresponding obligation of constant courtesy and resnect toward the triuunal in which the proceedings are pending. And the fact that the tribunal is an inferior one, and its rulings not final and without appeal, does not diminish in the failed to follow the theories he ad-slightest degree this obligation of courtesy and respect. A justice of the peace before whom the most trifling matter is being litigated is entitled to receive from every attorney in the case corteous and respectful treatment. A failure to extend this priate to make the statement in brief, courtesy and respectful treatment is If he really believed or knew of a failure of duty; and it may be so gross a dereliction as to warrant the

evercise of the power to punish for contempt. It is so that in every case where a judge decides for one party., he decides against another; and oftimes both parties are before hand consile confident and sanguine. The disappointment, therefore, is great, and it is not in human nature that there should be other than bitter feeling which often reaches to the judge as the cause of the supposed wrong. A judge, therefore, ought to be patient and tolerate everything that appears but the momentary outbreak of die annointment. A second thought will etnous charge he made, such lan- generally make a party ashamed of guade is unwarranted and contemp- such an outbreak. So an attorney would be at the mercy of the disor-

ependence, may become want to use the entemptuous, angry or insulting ex- o ressions at every adverse ruling un- office. it become the court's clear ducy to check the habit by the severe les- In on of a punisament for contempt tat The single insulting expression for renich the court punishes may there . or ere seem to these knowing nothing of cree he prior conduct of the attorney, and o looking only at the single remark, a stitu etter which i ant well be unnotice ad ed; and yet if all the conduct of the gur itterney was known, the duty of in- nece a ference and punis ment might be an "

We remark finally, that while from the he very nature of things the power opin of a court to punish for contempt is a vast power, and one which, in the the achands of a corrupt or unworthy judge | manner in -hich he conducts himself | to the commission in open court of an may be used tyrannically and unjust- in his int - rea - ith the could. He ly, yet protection to individuals lies may be breest and capable, and yet the language is combine of a manaeeedings, and the appeal which may ually internet the business of the must be are continued but where it intrusted to him."

tion, and the court after hearing the reporter's notes read, decided that she had answered it, whereupon one She has not answered the question" held that the attorney was guilty of contempt regardless of the question maether the decision of e cour was right or wrong," Russell v. Circuit Judge, 67 Iowa, 102.

In Sears v. Starbird, 75 Cat. 91, 7 Am. St. 123, a brief reflecting unon the trial judge was stricken from the record in the Supreme Court, because

"The court, out o. . fullness of his love for a cause, the parties to it or ely counsel, or from an overzealous desire to adjudicate all matters points argum ents and things,' could not, with any degree of propriety under the law. this petition was filed, had been vately handed to the judge a letter, putch and doctor up the cause of the plain, fis, whic., perhaps, the carelessness of their counsel had left in ture limiting labor to eight hours per their client feared, from the circum- such a condition as to entitle them to

In reference to this language it was

"...ere is anet intiriation that We see nothing in the record which suggests that such was the case. On The brief, therefore contains a grounthat duty. In Friedlander v. sumner

pect for the judge but that their ac. 'If unfortunately counsel in any tion had been taken in furtherance of case thall ever so far forget himself what they deemed ... s viol interests as willfully to employ language maniof t eir client and the faithful and feetly disrespectful to the judge of the conscientious discharge of the r duty | superior court-a thing not to be an-The judge accepted the disclaimer of ticipated—we shall deem it our duty personal disrespect, but refused to to treat such conduct as a contempt of believe the disclaimer of intention to this court, and to proceed accordingly; and the briefs of the case were ordered to be stricken from the files."

In U. S. v. Late Corporation of Church of Jesus Christ of Later Day Saints, language used in the petition filed in effect accusing the court of an attempt to shield its receiver and his attorneys from an investigation of charges of gross misconduct in office and containing the statement that 'We must decline to assume the functions of a grand jury, or attempt to perform the duty of the court in investigating the conduct of its offcers, "was held to be contemptuous. 211 P. 519.

In re Terry, 36 Fed. 419 an extreme case, for charging the court with having open bribed, realsting removal from the court room by the marshai acting under an order from the bench and using acusive language, one of the defendants was sent to jail for We remark, secondly, that an attor- thirty days and the other for six months. Judge .erry, who had not court sought release and to be purged of the contempt by a sworn petition in which he alleged that in the est idea of showing any disrespect to the court. It was held that this could not avail or relieve him and it was said:

"The law imputes an intent to accomplish the natural result of one's acts, and, when those acts are of a criminal nature, it will not accept, against such implication the denial of the transgressor. No one would be safe if a denial or a wrongful or criminal intent would suffice to realese the violator from the punishment due in his offenses.' In an application for a writ of ha-

beas corpus growing out of that case Justice Harlan, speaking for the Supreme court of the United States said: "We have seen that it is a settled toetrine in the jurisprudence both of England and of this country, never suposed to be in conflict with the liberty of the citizens, that for direct contempt committed in the face of the court, at least one of superior jurisdiction, the offender may in its liscretion, be instantly apprehended and immediately imprisoned, without rial or issue, and without other proof han its actual knowledge of what ocoursed; and that according to an unbroken chain of authorities, reaching ack to the earliest times, such power, although arbitrary in its nature and liable to abuse, is absolutely essential to the protection of the ourts in the discharge of their funcions. Without it udcital tribunals

is re-retear to their n i bart of the the disavera' or "d

· a managereph in that

made to the legislature for non- courts in which he practices; or he is offensive and the proceedings against any judge who may be a systematic and continuous lies also in the relief to commit proves himself unworthy of the power course of conduct render it impossi- a contempt may tend to excuse, but ble for the courts to marere their anna us for the et. From an open, Where a contention grose between self-respect and the respect of the counsel as to whether a witness had public and at the same time permit for which an atterney contumaciously not already answered a certain quest him to act as an officer and attorney. refused in any way to atone, he was An attorney who thus studiously and fined for contempt, and his authority systematically attempts to bring the to practice revelled." tribunals of fusing into public conof the attorneys sprang to his feet, tempt is an unfit person to hold the we have mentioned are cited in the briefs filed by Respondent upon the as old as courts are old. It is also and turning to the court, said, in a position and express the univileges of note to re Cary, 10 Fed. 83., and in an officer of those ' ibuna's An open 1 Cve . 20, where it is said that notorious and public insuit to the contempt may be committed by in- ther notice: highest in third tribunal of the State se ting in pleadings, briefs, motions for which an attyrner continuationally arguments, petitions for rehearing or refuses in any way to stone, may just other papers field in court insulting tify the relical of that tribunal to or contempturus language, reflecting recognize him in the future as one of on the integrity of the court.

> spondent - a firel for immically stat, contempt which no construction or ing to a in the of the peace, "I think !" his man to be wiser than the Su- "ect-iner of an in entired disposproma cour " Redfield C. J., said: Deet to the court may pall to but tice court as well as in this court, any explanation cannot be construed

here or there." any all ernative left him but the sub- nim lefate o improperty inhuence our mission to what ... o no doubt regards decision. as a misaparehension of the law, both As we have seen, attorneys have to the Honorable, the Board of Core on the part of the justice and of this been severely punished for using lan court. And in that respect he is in a guage in many instances not so repcondition we've similar to many who rehensible, but in view of the disahave failed to convince others of the vowal in open court we have concludsoundness of their own views, or to ed not to impose a penalty, so harsh

falacy." In Mahoney v. State, 72 N. E. 151. the interests of my client or not." and making other insolent statements In Redman v. State 28 Ind., the judge informed counsel that a question was improper and the attorney replied: 'If we cannot examine our witnesses he can stand aside." This language this proceeding. from assmining the next witness

In Brown v. Brown IV Ind. 727, the lawver was taxed with the cost of the action for filing and reading a petition for divorce which was unnecessarily gross and indelicate.

In McCormick v. Sheridan, 30 P. 24, stated that how or why the konorable commission should have so effectually and substantially ignored and disregarded the ancontradicted testimony. we do not know. It seems that neither the transcript nor our briefs could have fallen under the commissioners observation. A more disingenious and misleading statement of the evidence could not well be made. It is substantialy untrue and unwarranted. The decision seems to us to be a traversity of the evidence " Hel? that counsel drafting the petition was guilty of contempt committee in the face of the court, notwithstanding a disavowal of disrespectful intention.

A fine of \$200 was imposed with an alternative of serving in jall.

said: "If it was the general habit of the commuity to denounce, degrade, and disregard the decisions and judgments of the courts, no man of self-respect and just pride of reputa in would remain upon the wench, and such only would become the ministers of the law as were insensible to defamation and contempt. But happily for the good order of society, men, an espectaily the people of this country, are generally disposed to respect abide the decisions of the tribunals ordained by government as the common arbiters of their rights. But where isolated individuals, in violation of the better instincts of human nature, and giaregardful of law and order, wontanly attempt to obstruct garding and exciting disrespect for the decisions of its tribina s, every good citizen will point them out as proper subjects for legal animadver-

A court must naturally look first to an enlightened and conservative bar, governed by a high sense of profes sional ethics and deeply sensible, as they always are, of its necessity to aid in the maintenance of public respect for its opinions."

In Somers v. Torrey, 5 Paige C'a. 64 Dividends 28 Am. D. 411, it was held that the attorneyw ho put his hand to scan falous Total expenditures, 1965 2,123,536 45 and impertinent matter stood 'against the complainant and one not a party Risks written to the suit is liable to the ce asure of Premiums 2.633.875 23 cost of the proceedings to have it expunged from the record.

In State v. Graithe, 1 I A. Am. 183, the court held that it could not consistently with its duty receive a brief Losses incurred expressed in disrespectful language, and ordered the clerk to take it from the files.

3.5 n of / ar way to isted from the end to rial to which the son and, except in a to " each; if noct, whotablished b the epartence of ages." sct, 18 p on lent in to

a be cannot justify we her we too it spoken and if in

the publicity of all judicial pro- he masses shart in earlier as to car as tion, and is some and the proceedings note ion and public insult to a court

Other ant office in line with those

Py using he object! nable tenguage In re Corner 32 Vt. 262, the re- stated respondent became guilty of a let wo do con encuse or purgo. Fig. "The council must submit in a just same the test a charge which mader "We do not see that the relator has Dide for any other average unless to

became convinced themselves o ftheir as d sharment or suspension from practice, or fine or imprisonment.

Nor do we forget that in prescrible g ar attorney was fined \$50 for saying against the missentier of attorneys "I want to see whether the court is litigants ought not to be punished or right or not i want to know whether prevented from main aming in the I am going to be heard in tais case in case all petitions, pleadings, and papers essential to the preservation and enforcement of their rights.

It is ordered that the offensive pettiton be stricken from the files, that respondent stand reprimanded and warned, and that he pay the costs of

Taibot, J. Norcross, J.

In this matter my concurrence is

special and to this extent: The language used by the responand on which the contempt proceeding was based, was, in my opinion. course, should not have been used. The respondent nowever, in response to the order of the court to show cause why he should not be punished therefor, appeared and disclaimed any intention to be disrespectful or contemptuous: and moved that if the Agl Assn. Bend Fund, Series Court deemed the language contemptuous, the said language be stricken out of his petition.

Respondent not only contended and said that he had no intention to be Co. School Fund. Dist. 1.....388 95 disrespectful or contemptuous, but he | Co. School fund, Dist. 2......151 29 also earnestly contended that the language charged against him and which he admitted naving used was not dis-The Chief Justice speaking for the respectful or contemptume In the court in State v. Morrill, 16 Ark. 310 last contention, I think he was plain- State school fund, Dist 2...160 00 ly in error.

The duty of courts in matters of this kind is indeed an unpleasant one such at least it has a ways appeared Special building5850 00 to me. Yet it must cometimes be School library, No. 2...........86 of

Therefore, I concur in the conclusion reached and in the order stated in the opinion of Justice Talbot, to-"It is ordered that the effensive net-

ition be stricken from the files, that respondent stand reprimanded and warned, and ahat he pay the costs of this preseding. Fitzgerald, C. I. 00

ANNUAL STATEMENT

the course of public justice by disre Of The Continental Casualty Company Of Hammond Indiana. General office, Chicago, Iills. Japital (paid up)\$ 300,000 00 Assets 1,708,611 28 Liabilities, exclusive of capital and met surplus . . 1,157,641 70 Income Premiums 2,129,749 63 Other sources 30,476 73 Total income, 1905 2,160,226 #6 30.476 73 Expenditures Losses 993,904 K. 16,500 00

Business 1905 the court and chargeable with the Losses incurred -1,009,644 S1 Nevada Business Risks written none Premiums received 20 095 56 Losses paid 8.544 53 8.634 55

A. A. SMITH, Secretary.

Referring to the rights of courts to received \$2.722.67 from leasers oper-The Sierra Nevada mining company punish for contempt. Plackford, In in strate v. Tipton, 1 Blackf. 166, said: ating on Codar Hill during the month "This great power is entrusted to of February.

sup SPECIAL EXCURSION FROM SAME FRANCISCO TO CITY OF MEXICO AND RETURN. DECEMBER 16th.

A select party is being organized Ly the Southern Pacific to leave San Flancisco for Mexico City, December 1, in 16th, 1905. Train will contain flag robn. les ibule sleepers and dining car, att the way on going trip. Time limit . At pag it of cooks of corneys, will be sixty days, enabling excursionmi, a contournt "Language may be contemptuous, ists to make side trips from City of Diexico to points of interest. On return trip, stopovers will be allowed at not essential before puni brent, and points on the main lines of Mexican contain by the points on the main lines of Mexican Central, Santa Fe or Southern Paris fic. An excursion manager will be in charge and make all arrangements. Round trip rate from San Francisco

> Pullman berth rate to City of Mexico, \$12.00.

> For further information address :aformation Bureau, 613 Market street. San Francisco Cal.

Liberal Offer. I beg to advise my patrons that the price of disc records (either Victor or Columbia), to take effect immediately, will be as follows until fur-

Ten inch disks formerly 70 cents will be sold for 60 cents.

Seven inch records formerly 50c, now 35c. Take advantage of this of-C. W. FRIEND.

Notice to Hursetrs.

Notice is herapy given that any person found hunting without a permit on the premises award by Theodo's vincers, with ne prosecuted. A linand with the same formal respect, showles rean as reflecting on the inand which could scarcely have been at \$5 for the season or 50 cents for one day.

OFFICE COUNTY AUDITOR

ty Commissioners, Gentlemen: In compliance with the law. herewith submit my quarterly raport showing receipts and disbursements of Ormsto County, during the quarter chang Dec. 30, 1905.

Quarterly Report. Ormsby County, Nevada.

Receipts. Filed Feb. 1, 1906. Balane in County Treasury at end of last quarter \$40023 364 Gaming licenses 1057 50 Fee of Co. officers...........531 46 Rent of county bldg 250 0v 1st. Instalment taxes..... 14924 21% Special school tax......1710 90% Slot machine license......282 09 Cigarette license42 36 Semi-Annual Set. State Treas 531 73 Total 61,077 36% Disbursements.

> A, \$100.00250 00 Agl. Assn. Bond Fund, Series Co. School fund Dist. 3 30 70 Co School Fund Dist. 4.....24 00 State School fund, Dist. 1..2605 00 State School fund, dist.3 ...120 00 State School fund, Dist 4 ... 165 09

21,968 59% Re pitulation. Cash in Treasury October 190540023 36%

Receipts from Oct. 1st to Dec

30, 190521054 00% Disbursements from Oct. 1st to Dec 30, 190521968 5916 Balonce cash in County Treas.

January 1, 1906...... 39108 7758 H. DIETERICH, County Auditor Recapitulation

State fund103 86 Salary fund2725 78 Co. School fund3248 71 Co. Schood Dist. 1, fund .. 7638 221/2 Co. School Dist. 2, fund.....139 64 Co. School Dist. 3, fund.... 190 2616 Co. School Dist. 3, fund.....425 55 State School Dist. 1, fund. . . 1608 66

State School Dist. 2, fund.....77 51 State School Dist. 3, fund. . . 371 39 State School Dist. 3, fund...371 33 State School Dist 4, fund..... 19 23 Agl. Assn. Fund A 680 824 Agl. Assn Fund, B \$6 86 > Agl. Assn Fund Special...1918 94

Co. School Dist, fund - special Co. School Dist. fund 1, library

Co School Dist, fund 3, library

Co. School Dist fund 4, library

...... 6 10 3"-188 7/54 Tetal

